

DC-22-01838

CAUSE NO. \_\_\_\_\_

<b>URBANO PEREZ</b>	§	<b>IN THE DISTRICT COURT</b>
<b>Plaintiff,</b>	§	<b>134th</b>
<b>V.</b>	§	<b>JUDICIAL DISTRICT</b>
<b>FIESTA MART, LLC</b>	§	<b>DALLAS COUNTY, TEXAS</b>
<b>Defendant.</b>	§	

**PLAINTIFF'S ORIGINAL PETITION****TO THE HONORABLE JUDGE OF SAID COURT:**

**COMES NOW URBANO PEREZ**, hereinafter called Plaintiff, complaining of and about FIESTA MART, LLC, hereinafter called Defendant, and for cause of action shows unto the Court the following:

**I. DISCOVERY CONTROL PLAN LEVEL**

Plaintiff seeks damages in an amount that is within the jurisdictional limits of the Court and monetary compensation over \$250,000 but less than \$1,000,000. Plaintiff intends to conduct discovery under Level 2 of Texas Rule of Civil Procedure 190.3.

**II. PARTIES AND SERVICE**

Plaintiff, URBANO PEREZ, is an individual who is a resident of Dallas County, Texas. The last three digits of the social security number for the Plaintiff are 853.

Defendant, Fiesta Mart, Llc, a company doing business in Texas, located at 11445 Garland Rd, Dallas, TX 75218, may be served with process by serving its registered agent: CT Corporation System at, 1999 Bryan Street, Suite 900, Dallas, TX 75201. Service of said Defendant as described above can be perfected by personal delivery or certified mail.

**III. JURISDICTION AND VENUE**

The Court has jurisdiction over the subject matter, and the amount in controversy is within the jurisdictional limits of this court. This court has jurisdiction over the parties, and all or a substantial part of the events occurred in this county. Venue in Dallas County is proper in this cause because the incident given rise to this action occurred in Dallas, County Texas.

**IV. FACTS**

At all times material hereto, Defendant, Fiesta Mart, Llc, was the owner/operator of the premises located at 11445 Garland Rd, Dallas, TX 75218.

On or about July 5, 2020, Plaintiff entered upon said premises as an invitee for the purpose of shopping for supplies for his birthday gathering. During the time that Plaintiff was upon Defendant's property Plaintiff was seriously injured as a result of a dangerous condition that existed, specifically, a clear substance was negligently left on the floor. Plaintiff's slip and fall in a clear substance negligently left on the floor of the Defendant's store was the proximate cause of the damages and injuries complained of in this petition in which Defendant, knew or, in the exercise of ordinary care, should have known existed.

**V. LIABILITY OF DEFENDANT**

At all times mentioned herein, Defendant, Fiesta Mart, Llc, owned/operated the property in question located at 11445 Garland Rd, Dallas, TX 75218.

At all times mentioned herein, Defendant, Fiesta Mart, Llc, had such control over the premises in question that Defendant, Fiesta Mart, Llc, owed certain duties to Plaintiff, the breach of which proximately caused the injuries set forth herein.

Defendant, Fiesta Mart, Llc, Defendant's agents, servants, and employees negligently permitted the floor to become dangerous, negligently or willfully allowed such condition to continue and negligently or willfully failed to warn Plaintiff of the condition of the floor. This condition existed despite the fact that Defendant, Fiesta Mart, Llc, or Defendant's agents knew or should have known of the existence of the aforementioned condition and that there was likelihood of a person being injured as occurred to Plaintiff.

Furthermore, Plaintiff would show the court that the condition of the floor had continued for such period that had Defendant, Fiesta Mart, Llc, or Defendant's agents exercised ordinary care in the maintenance of the floor surface area, it would have been noticed and corrected by such persons.

At all times pertinent herein, Defendant, Fiesta Mart, Llc, and any of Defendant's agents, who were acting in the scope of their employment, were guilty of negligent conduct toward the Plaintiff in:

- A. Failing to properly inspect and maintain the flooring area in question to discover the dangerous condition;
- B. Failing to give adequate and understandable warnings to Plaintiff of the unsafe condition of the flooring area;
- C. Failing to give warnings to Plaintiff of the unsafe condition;
- D. Failing to discover and remove the dangerous substance that caused the slip and fall; and,
- E. Failing to discover and remove the dangerous substance within a reasonable time.

## **VI. PROXIMATE CAUSE**

Each and every, all and singular of the foregoing acts and omissions, on the part of Defendant, taken separately and/or collectively, constitute a direct and proximate cause of the injuries and damages set forth below.

## **VII. DAMAGES FOR PLAINTIFF**

As a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiff, URBANO PEREZ, was caused to suffer severe bodily injuries and to incur some or all of the following damages:

- A. Reasonable medical care and expenses in the past. These expenses were incurred by Plaintiff, URBANO PEREZ, for the necessary care and treatment of the injuries resulting from the incident complained of herein and such charges are reasonable and were usual and customary charges for such services in Dallas County, Texas;
- B. Reasonable and necessary medical care and expenses which will in all reasonable probability be incurred in the future;
- C. Physical pain and suffering in the past and future;
- D. Impairment in the past and future;
- E. Mental anguish in the past and future;
- F. Disfigurement;
- G. Lost wages past and future; and,
- H. Loss of earning capacity past and future.

## **VIII. PRAYER**

**WHEREFORE, PREMISES CONSIDERED**, Plaintiff respectfully ask(s) that the Defendant be cited to appear and answer and that upon a final hearing of the cause, judgment be entered for the Plaintiff against Defendant for some or all of the following damages:

- a) Physical pain in the past and future;
- b) Mental anguish in the past and future;
- c) Disfigurement in the past and future;

- d) Physical impairment in the past and future;
- e) Medical expenses in the past and future;
- f) Loss of earning capacity in the past and future;
- g) Lost wages;
- h) Costs of suit;
- i) Prejudgment and post-judgment interest;
- j) All other and further relief, in law and in equity, to which Plaintiff may be entitled.

Respectfully submitted,

**BAILEY & GALYEN**  
2777 North Stemmons Frwy., Suite 1150  
Dallas, TX 75207  
(214) 252-9099 - Office  
(214) 520-9941 – Facsimile  
[bforteith@galyen.com](mailto:bforteith@galyen.com) - Email

By: /s/ William A. Forteith  
William A. Forteith  
Texas State Bar No.: 07267500

**ATTORNEY FOR PLAINTIFF**